

FAMILIES FIRST LAW*

***The following document represents a compilation of excerpts from Tennessee Code Annotated. This document will assist you in locating the portion of the law pertaining to Families First. Since the original bill establishing Families First has been codified into various sections of Tennessee code, this compilation simply serves to summarize the law as it stands.**

T. C. A. § 71-3-153

WEST'S TENNESSEE CODE ANNOTATED

TITLE 71. WELFARE

CHAPTER 3. PROGRAMS AND SERVICES FOR CHILDREN

PART 1--AID TO DEPENDENT CHILDREN--GENERAL PROVISIONS

71-3-153. Definitions

(a) As used in this part, unless the context otherwise requires:

(1) "Assistance" means, unless otherwise required by the context, "temporary assistance";

(2) "Caretaker relative" means the father, mother, grandfather or grandmother of any degree, brother or sister of the whole or half-blood, stepfather, stepmother, stepbrother, stepsister, aunt or uncle of any degree, first cousin, nephew or niece, the relatives by adoption within the previously named classes of persons, and the biological relatives within the previous degrees of relationship, and the legal spouses of persons within the previously named classes of persons even if the marriage has been terminated by death or divorce, with whom a child is living;

(3) "Child" or "children" means:

(A) A person or persons under eighteen (18) years of age; or

(B) A person who has not attained nineteen (19) years of age and who is a full-time student in a secondary school or the equivalent and who is expected to graduate by the nineteenth birthday;

(4) "Department" means the department of human services;

(5) "Dependent child" means, except as otherwise stated herein, a child living with a caretaker relative if the child is deprived of parental support due to death of a parent, continued absence of a parent from the home, physical or mental incapacity of a parent, or unemployment or underemployment of either or both parents and if the child's legally responsible relatives are not able to provide adequate care and support of such child without temporary assistance;

(6) "Family" means the eligible unit of children and parent(s) or caretaker relative(s) residing in a common residence; and

(7) "Temporary assistance" means the program to provide economic support and other support

services to families which is provided by the state utilizing funds made available by congress and the secretary of health and human services to the state pursuant to the Social Security Act, and any state funds which may be appropriated by the general assembly designated to support the temporary assistance program. If at any time, federal funds are not available to provide the continuation of the temporary assistance program, the state shall not be obligated to continue the program by using only state funds.

(b) It is the intent of the general assembly that any welfare program administered by the state shall be in compliance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, et seq., and regulations promulgated pursuant thereto, and all other applicable federal civil rights legislation.

T. C. A. § 71-3-154

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TITLE 71. WELFARE

CHAPTER 3. PROGRAMS AND SERVICES FOR CHILDREN

PART 1--AID TO DEPENDENT CHILDREN--GENERAL PROVISIONS

71-3-154. Eligibility for temporary assistance; work requirements; professional responsibility plan

(a) A family shall be eligible for temporary assistance pursuant to this part if:

(1) A dependent child resides in this state with a caretaker relative in that family, or an individual who applies for temporary assistance is pregnant, or as otherwise defined by the department;

(2) The family meets income standards based upon the standard of need for a family based upon its size and income and based upon resource limits as determined by the department in its rules;

(3) The family members are engaged in full-time or part-time employment, and other training or other work preparation activities as set forth in subsection (g), except as exempted by §§ 71-3-151--71-3-165 or by rule of the department;

(4) The caretaker relative has agreed to and complies with a personal responsibility plan as developed by the department in accordance with subsection (h); and

(5) The family or individual of the family is otherwise eligible pursuant to federal or state laws or regulations.

(b)(1) A caretaker relative who becomes ineligible for any reason other than a failure to cooperate with child support obligations shall be eligible for eighteen (18) months of transitional child care assistance and such assistance shall be paid, for any months the caretaker relative is employed, on a sliding fee scale based upon the family's income for so long as federal funding for the temporary assistance to needy families (TANF) block grant program or any related waiver is in effect.

(2) Food stamp assistance shall continue to be available to these families as prescribed by federal or state law or regulations.

(c)(1) Persons who are recipients of temporary assistance and who marry while receiving such assistance shall not be subject to the deprivation standards for dependent children, and the department will apply an income standard which recognizes this circumstance.

(2) If parents of a child who lives in the eligible unit marry while the child and at least one (1) parent are receiving assistance, and while the parents continue to reside together with the child in the home, the parent who may owe a child support arrearage for that child shall be forgiven the state portion of that arrearage as long as those parents remain married. The parent owing the child support arrearage shall remain liable only for the federal portion of the child support arrearage, unless the department is able to obtain a federal waiver to forgive the federal portion. The department is authorized to seek and to implement such a waiver. If the parent owing a child support arrearage leaves the residence of the child, at any time prior to termination of that parent's child support obligation under state law, the parent owing the child support arrearage shall be liable for the entire state and federal child support arrearage amount.

(d)(1)(A) Except as provided in §§ 71-3-151--71-3-165 or as otherwise required by federal law, no family shall receive assistance if that family includes an adult who has received assistance as part of the same family unit under this part for a total of sixty (60) months, whether or not consecutive, unless an exemption is granted pursuant to § 71-3-157(f); provided, that no single continuous period of eligibility shall extend beyond eighteen (18) months, unless an extension is granted pursuant to § 71-3-157(f) or unless an exception for up to six (6) months is granted due to county economic hardship. Economic hardship is considered to exist in any county where the unadjusted unemployment rate for the county of residence, for the month most recently published by the department of labor and workforce development, is more than twice the

unadjusted unemployment rate for the state as a whole; provided, however the family receiving assistance must otherwise be in compliance with its personal responsibility plan.

(B) Whenever temporary assistance for a family is terminated for any reason other than the family's successful transition to economic self-sufficiency, the department of human services shall promptly so notify the department of health. Upon receiving such notification, the department of health shall take appropriate actions to monitor and protect the safety and well-being of the children within such family. Such departmental actions shall include, but not necessarily be limited to, one or more in-home visits with such children within thirty (30) days of the termination of such temporary assistance. Such in-home visits shall be performed by a nurse, medical social worker or other health professional. In appropriate cases, the department of health shall make a referral to the department of children's services.

(C) The department of human services may extend temporary assistance if the department of health, with the concurrence of the department of human services and child protective services, certifies that such assistance is needed in order to prevent a child's loss of housing, heat, light or water, or to prevent removal of a child from the custody of the child's parent.

(2) As to a child who was not the head of a household or who was not married to the head of a household, the sixty-month time limit and the eighteen-month time limit stated in subdivision (d)(1) shall not begin to run during the time that the child was a member of a family receiving assistance under this part.

(3)(A) In the case of a minor parent, the sixty-month time limit and the eighteen-month time limit stated in subdivision (d)(1) shall not begin to run until that minor parent reaches eighteen (18) years of age and has graduated from high school, or until the class of which the minor parent is a member, when the minor parent reaches eighteen (18) years of age, graduates from high school.

(B) Such person shall also be exempt from the work requirements of subsection (g) during the periods stated in subdivision (3)(A).

(4) The sixty-month time limit and the eighteen-month time limit stated in subdivision (d)(1) shall not begin to run to a person who functions at or below grade level 8.9 as determined by testing certified by the department of education for adult basic education purposes, so long as such person is enrolled at least twenty (20) hours per week in a departmentally approved G.E.D. program and is making satisfactory progress as judged by the teacher and the department's case manager, until a person has obtained and functions at a level greater than a grade level above 8.9, as determined by testing certified by the department of education for adult basic education purposes.

(5) A family shall be eligible for temporary assistance beyond the eighteen-month time limit and the sixty-month time limit stated in subdivision (d)(1) if:

- (A) The family does not contain an adult;
- (B) The caretaker relative is over sixty (60) years of age;
- (C) The caretaker relative is caring for a disabled child relative or disabled adult relative, based upon criteria set forth in the department's rules;
- (D) The caretaker relative is disabled, based upon criteria set forth in the department's rules; or
- (E) As otherwise required by federal law.

(e) No payment of assistance shall be made to an individual who has not reached eighteen (18) years of age, who is not married, who has a child who is at least sixteen (16) weeks of age in such person's care, and who has not successfully completed a high school education or its equivalent unless the individual participates in:

(1) Educational activities directed toward the attainment of a high school diploma or its equivalent; or

(2) An alternative educational or training program that has been approved by the department.

(f)(1) Except as provided in subdivision (f)(2), if a person applying for assistance under this chapter is under eighteen (18) years of age, has never married, and is either pregnant or has the applicant's child in the applicant's care, the applicant is not eligible for assistance if:

(A) The applicant and the applicant's child or children do not live in a place maintained by the applicant's parent, legal guardian, or other adult relative as such person's own home or other suitable living arrangement as otherwise defined by rule of the department; and

(B) The department determines after investigation that the physical or emotional health or safety of the person applying for assistance or the dependent child or children would not be jeopardized if the applicant and the dependent child or children were required to live in one of the situations described in subdivision (f)(1)(A).

(2) Subdivision (f)(1) does not apply if:

(A) The person applying for assistance has no parent, legal guardian or other adult relative whose whereabouts are known;

(B) No parent, legal guardian or other adult relative of the person applying for assistance allows the person to live in the home of that parent, legal guardian or other adult relative as determined by the department's verification; or

(C) The department otherwise determines that there is good cause not to apply subdivision (f)(1).

(g) All family members who are not otherwise exempt pursuant to rule of the department and who receive temporary assistance pursuant to this part shall engage in full-time or part-time

employment, and other training or other work preparation activities consisting of:

- (1) Employment;
- (2) Work experience activities;
- (3) On-the-job training;
- (4) Job search and job readiness assistance;
- (5) Community service programs;
- (6) Vocational educational training not to exceed twelve (12) months with respect to any individual;
- (7) Job skills training related directly to employment;
- (8) Education directly related to employment or adult education when a person is participating in a departmentally approved adult basic education program and is making satisfactory progress as judged by the teacher and the department's case manager, in the case of a recipient who has not received a high school diploma or certificate of high school equivalency;
- (9) Satisfactory attendance at secondary school, in the case of a recipient who:
 - (A) Has not completed secondary school; and
 - (B) Is a dependent child or a head of a household who is nineteen (19) years of age or younger;
- (10) Other postsecondary education or training leading to a degree or certificate for up to the approved time limit, as reflected in the personal responsibility plan, when the education or training meets state accreditation, demand occupation, quality and placement standards, in the case of a recipient who:
 - (A) Presents evidence satisfactory to the department that tuition arrangements have been made with the institution from personal funds, private grants or federal or state tuition assistance programs;

- (B) Engages in such education or training on a full-time basis as defined by the institution;
- (C) Maintains a collegiate grade point average of at least 2.0, except that a recipient falling below 2.0 shall have one (1) academic term to regain the required average; or, if attending a non-collegiate institution, maintains academic standards equivalent to those of the state technology centers as determined by the department;
- (D) Continues otherwise to make satisfactory progress toward completion as defined by the institution; and
- (E) Concurrently engages in paid employment, including work study, in an amount sufficient to ensure that the recipient's combined participation in education, training and/or employment averages at least (40) hours each week.

(h)(1) As a condition of eligibility, an applicant for or recipient of temporary assistance must agree to a personal responsibility plan developed by the department in direct consultation with the applicant or recipient. The maximum time limits set forth within subsection (d) for receipt of temporary assistance shall not begin to run until such time as the department has presented the applicant or recipient with the personal responsibility plan designed specifically for the applicant or recipient. For each applicant or recipient who is not exempt from the work requirements set forth in subsection (g), the personal responsibility plan shall prescribe an individualized, time-limited, goal-oriented set of work activities and supportive assistance designed to provide the applicant or recipient with an opportunity to gain economic self-sufficiency. To the extent such services are necessarily required both by the individual circumstances of the applicant or recipient and by the specific activities prescribed within the personal responsibility plan, the plan shall provide for transportation and child care services. Each such plan shall prescribe other services and activities selected to meet the specific needs of the applicant or recipient, such as life skills training, job skills training, development of work objectives, job search and job readiness assistance, adult basic education, vocational education, and/or other services and activities selected to address the specific needs of the applicant or recipient. At least once each six (6) months throughout the period of continuous temporary assistance provided pursuant to §§ 71-3-154(d) and 71-3-157(f), the department shall monitor and evaluate the personal responsibility plan to promote the recipient's success in gaining self-sufficiency.

(2)(A) The personal responsibility plan shall require participation in personal responsibility activities including, but not limited to, full-time or part-time employment, and other training or other work preparation activities as set forth in subsection (g).

(B) The personal responsibility plan shall also require, but shall not be limited to, as a condition of eligibility or continued eligibility for temporary assistance, that the parent or other caretaker relative, regardless of age or disabling status enter a plan which requires:

- (i) The children in the family attend school or, where available, kindergarten;
- (ii) The children in the family receive immunizations and health checks; and
- (iii) The parent or caretaker relative cooperate in the establishment and enforcement of child support, including, but not limited to, the naming of the father of a child for purposes of paternity establishment unless good cause not to cooperate exists, as defined by the department.

- (C) The plan may also require that the parents or caretaker relative attend life skills training.
- (D)(i) Unless exempt, refusal or failure to engage in full-time or part-time employment, and other training or other work preparation activities as set forth in subsection (g), without good cause, or the failure to cooperate in the establishment or enforcement of child support without good cause, shall result in denial of eligibility for, or termination of, temporary assistance for the entire family unit.
- (ii) Failure to comply with the personal responsibility plan as required under subdivisions (h)(2)(B)(i) and (ii), without good cause shall result in a percentage reduction with regard to the temporary assistance payment in the amount of twenty percent (20%) until such time as compliance occurs.

(3) The work requirements shall be excused for:

- (A) A parent or caretaker relative who proves to the satisfaction of the department the existence of such person's temporary incapacity or permanent disability;
- (B) A parent or caretaker relative who proves to the satisfaction of the department that such person must provide personal care for a disabled relative child or adult relative living in the home;
- (C) A woman for four (4) months after the birth of a child;
- (D) A person who is over sixty (60) years of age;
- (E) A parent or caretaker relative, who functions at or below grade level 8.9 as determined by testing certified by the department of education for adult basic education purposes, providing such parent or caretaker relative is enrolled at least twenty (20) hours per week in a departmentally approved G.E.D. program and is making satisfactory progress as judged by the teacher and the department's case manager. However, such parent or caretaker relative may elect to hold part-time employment in addition to enrolling and remaining within such G.E.D. program or may elect to hold full-time employment in lieu of enrolling or remaining within such G.E.D. program; or
- (F) A non-parental caretaker relative who chooses not to be included in the assistance group; and
- (G) Such other exemptions as may be required by federal law, as well as such other exemptions as may be established by rule of the department in order to promote the purposes of §§ 71-3-151-71-3-165.

(4) If, without good cause, a recipient of temporary assistance fails to comply with a child support or work plan requirement imposed by §§ 71-3-151--71-3-165 or prescribed within the personal responsibility plan, then the family shall be subject to appropriate sanction by the department, which may include suspension of temporary assistance pending compliance with the requirement. If subsequent to the imposition of such sanction the recipient without good cause fails again to comply with such requirement, then the family shall be subject to termination of temporary assistance until there is compliance with the requirement or until the passage of three (3) months, whichever is greater.

- (i) The maximum payment standard for a family shall not be increased for a child who is born to

a caretaker relative of a temporary assistance unit who, as determined by the statement of a physician, becomes pregnant while receiving temporary assistance, or as otherwise defined by regulation of the department; provided, that if the family loses eligibility for any reason other than a failure to cooperate with the department or a failure to comply with the personal responsibility plan and if the family subsequently becomes eligible again for temporary assistance, then the department shall base the maximum payment standard on the actual size of the family unit including each child.

(j) No payment of temporary assistance shall be made to an individual for ten (10) years from the date of conviction, guilty plea or plea of nolo contendere of that individual in a federal or state court for having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from two (2) or more states under the temporary assistance program under this part, TennCare or any program of medical services under Title XIX of the Social Security Act, the Food Stamp Act of 1977, or under the supplemental security income program under Title XVI of the Social Security Act.

(k)(1) No payment of assistance shall be made to an individual who is fleeing to avoid prosecution or custody or confinement after conviction under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which an individual flees, or which, in the case of the state of New Jersey, is a high misdemeanor under the laws of such state, or who is violating a condition of probation or parole imposed by federal or state law.

(2)(A) Pursuant to the option granted the state by 21 U.S.C. § 862a(d), an individual convicted under federal or state law of a felony involving possession, use or distribution of a controlled substance shall be exempt from the prohibition contained in 21 U.S.C. § 862a(a) against eligibility for Families First program benefits for such convictions, if such person, as determined by the department:

- (i)(a) Is currently participating in a substance abuse treatment program approved by the department of human services;
- (b) Is currently enrolled in a substance abuse treatment program approved by the department of human services, but is subject to a waiting list to receive available treatment, and the individual remains enrolled in the treatment program and enters the treatment program at the first available opportunity;
- (c) Has satisfactorily completed a substance abuse treatment program approved by the department of human services; or
- (d) Is determined by a treatment provider licensed by the department of health, division of alcohol and drug abuse services, not to need substance abuse treatment according to TennCare guidelines; and
- (ii) Is complying with, or has already complied with, all obligations imposed by the criminal

court, including any substance abuse treatment obligations.

(B) Eligibility based upon the factors in subdivision (k)(2)(A) must be based upon documentary or other evidence satisfactory to the department, and the applicant must meet all other factors of program eligibility, including, specifically, being accountable for the requirements of the personal responsibility plan required by this part.

(C) Notwithstanding the provisions of subdivisions (k)(2)(A) or (k)(2)(B) to the contrary, no person convicted of a Class A felony for violating a provision of title 39, chapter 17, part 4, shall be eligible for the exemptions provided by this subdivision (k)(2).

(D) No payment of assistance pursuant to this part shall be made for an illegal alien in a family.

(m)(1) Upon expiration of the period of continuous temporary assistance provided pursuant to §§ 71-3-154(d) and 71-3-157(f), a family shall not again be eligible for temporary assistance for three (3) months; provided, that if the family was employed upon the expiration of the period of continuous temporary assistance, and if the family was in compliance with requirements imposed by §§ 71-3-151--71-3-165 and the personal responsibility plan, then the family may become eligible for temporary assistance without any waiting period if employment is subsequently lost through no fault of its own and if eligibility requirements are met.

(2) If prior to expiration of the period of continuous temporary assistance provided pursuant to §§ 71-3-154(d) and 71-3-157(f), the family loses eligibility for reasons other than a child support or work plan sanction, then the family may become eligible for temporary assistance without any waiting period if eligibility requirements are met.

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TITLE 71. WELFARE

CHAPTER 3. PROGRAMS AND SERVICES FOR CHILDREN

PART 1--AID TO DEPENDENT CHILDREN--GENERAL PROVISIONS

71-3-155. Standard of need; amounts of grants

(a) In determining eligibility under § 71-3-154 for, and amounts of, grants under the temporary assistance program, the department of human services shall adopt rules and regulations establishing a standard of need which reflects the true cost of the following, less any discounts for other sources of assistance provided for in subsection (b):

(1) Safe, healthful housing;

(2) Minimum clothing for health and decency;

(3) A low-cost adequate food budget as recommended by the United States department of agriculture Thrifty Food Plan;

(4) An allowance for essential medical care; and

(5) Other necessary items including, but not limited to, transportation, personal care and educational expenses.

(b) The department shall deduct from the costs determined in subsection (a) the value of the following:

(1) Housing assistance programs;

(2) Food coupons or food stamps or food assistance under chapter 5, part 3 of this title; and

(3) TennCare or Medicaid.

(c) The commissioner shall report to the governor and the general assembly no later than October 1 of each year regarding projected annual adjustments to the standard of need necessitated by changes in the costs and benefits described in subsections (a) and (b). The report of the commissioner shall also contain:

(1) An estimate of the percentage of the adjusted standard of need which could be paid if the appropriation for the next fiscal year were to remain constant;

(2) An estimate of the cost of paying the same percentage of the standard of need considering necessary adjustments in such standard of need;

(3) The recommendation of the commissioner as to the percentage of the adjusted standard of

need that should be paid in the next fiscal year and the cost thereof; and

(4) Any other relevant information which would be helpful to the governor and the general assembly in making decisions concerning the temporary assistance program.

(d) Any amount of earned income in an aid-to-the-blind case, as provided in § 71-4-105 or as is provided in Title VII of the Economic Opportunity Act of 1964, and any other income required by federal statutes to be exempt in determining need, shall be exempt and shall not be considered as a resource in determining the amount of assistance to be paid to any person under this part.

(e) The standard of need for each fiscal year shall be established by rule on July 1 of each year in accordance with subsections (a) and (b).

(f)(1) The department of human services shall conduct a temporary assistance client characteristics study at least once every three (3) years. The study shall be conducted either by contract or within the department and shall be completed prior to any review, required by federal regulation, of the temporary assistance standard of need and temporary assistance grant payments.

(2) The maximum grants for the temporary assistance program, expressed as a percentage of the standard of need, shall be established either in the annual appropriations act or by rule. Notwithstanding any provision of this section or other law to the contrary, the standard of need for each assistance group size, which was established and funded at five hundred eighty-three dollars (\$583) for an assistance group size of three (3) persons for fiscal year 1995- 1996 and was set accordingly for other assistance group sizes, shall be increased to six hundred seventy-seven dollars (\$677) for an assistance group size of three (3) persons, and shall be set accordingly for other assistance group sizes for fiscal year 1996-1997; provided, that, during the fiscal year beginning July 1, 1996, the commissioner of human services may, with the concurrence of the commissioner of finance and administration, reduce the standard of need to the level established herein for the year ending June 30, 1996, based upon a showing that the increased standard of need is having a substantial unforeseen adverse impact on the temporary assistance budget. Upon seeking the required concurrence of the commissioner of finance and administration with regard to any such proposed reduction in the standard of need, the commissioner of human services shall simultaneously submit written notification of such proposed reduction to the chair of the finance, ways and means committee of the senate and to the chair of the finance, ways and means committee of the house of representatives.

(g) In determining eligibility under § 71-3-154, the department shall adopt rules which use the

standard of need less any exemption provided by subsection (d) to determine eligibility for amounts of grants. Such rules shall be adopted in a manner in which the maximum amount of child support and other income may be provided to the family and children without loss of grant and Medicaid benefits.

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71-3-156. Reserve fund

Notwithstanding any law to the contrary, the commissioner of finance and administration, from funds appropriated or otherwise made available to the department of human services in any account funding programs or services for temporary assistance shall establish a reserve fund to support temporary assistance, or any successor programs; provided, that for the fiscal year beginning July 1, 1996, the reserve fund shall not exceed fifteen million dollars (\$15,000,000). Funds available in such accounts at the end of any fiscal year shall not revert to the general fund, but shall be placed in the reserve fund established by this section.

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71-3-157. Administration by department of human services; advisory council; rulemaking authority

(a) The department shall administer the Families First Program established by §§ 71-3-151--71-3-165.

(b) The commissioner has the authority to organize the department in any manner necessary as permitted by law, to establish any necessary county or district or regional offices and to appoint area and district managers and directors in those offices or in the department's state office, and to establish any necessary internal policies and procedures for the proper administration of the Families First Program and for the provision of temporary assistance, child support, jobs programs and other related support services.

(c)(1) The commissioner of human services shall establish a Families First advisory council having fifteen (15) members to act in an advisory capacity on any matter within the jurisdiction of the Families First Program. The commissioner has the authority to appoint eleven (11) members and the remaining four (4) members shall be appointed by the speakers of the senate and house of representatives. Appointees to the council may include, but not be limited to, representatives of local government, private nonprofit organizations, business and industry, organized labor, religious groups, at least one (1) consumer of services, and local families first councils shall be represented by at least one (1) individual. The members of the council shall be appointed with a conscious intention of reflecting a diverse mixture with respect to gender and grand divisions of the state. To the extent possible, the membership of the advisory council shall reflect the ethnic composition of the service population. Ex-officio members of the advisory council shall also be appointed by the commissioner of human services and shall be selected from appropriate state departments, commissions and agencies that have responsibilities or programs related to the Families First Program.

(2) The term of a member of the Families First advisory council shall be three (3) years with the terms staggered so as to replace no more than one third (1/3) of the members each year. Members of the council may be reappointed after their terms expire. Members of the council shall continue in office until the expiration of their terms for which they were respectively appointed and until such time as their successors are appointed. Vacancies occurring on the council by reasons of death or resignation shall be filled in the same manner as a regular appointment for the remainder of the unexpired term.

(3) Members shall be reimbursed for their actual expenses for attending meetings of the council. All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(4) The duties of the council shall be to advise the commissioner regarding issues pertaining to the purpose, implementation and evaluation of the Families First Program when requested by the commissioner. Annually, the council shall elect one (1) of its members to serve as chair of the council and one (1) member to serve as vice chair. A secretary shall be appointed by the commissioner and shall be a staff member of the department. Minutes of each meeting shall be kept and sent to the commissioner and to all members of the council. The chair and vice chair may be elected to consecutive terms.

(5) From time to time, the commissioner may appoint committees composed of representatives from the public and/or private sectors for such purpose and duration as may be deemed

appropriate or required. Members of such committees shall be reimbursed for their actual expenses for attending meetings of their respective committees. All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(d) The department shall administer the program of economic assistance to families under Titles IV-A, IV-D and IV-F of the Social Security Act or related federal laws or regulations as they may continue to exist pursuant to federal statutes and regulations on or after September 1, 1996, and as such program statutes and regulations may be amended, or pursuant to any waivers that are granted by the federal government from those regulations as a result of the enactment of this legislation.

(e)(1) Acting in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, the department shall have rulemaking authority to establish any necessary rules for the administration of this part and shall have rulemaking authority to establish any rules to carry out the requirements of any title or part of any title which the department administers and which are necessary to immediately implement the provisions of this part to effect any federal legislative changes.

(2) In order to comply with this section's September 1, 1996, effective date, the department may implement its rulemaking authority through promulgation of public necessity rules in accordance with § 4-5-209. Upon delivering a draft of any such public necessity rules to the attorney general and reporter for approval as required by such section, the department shall simultaneously deliver a copy of such draft public necessity rules to the chair of the government operations committee of the senate and to the chair of the government operations committee of the house of representatives.

(f) The department shall establish by rule the procedures for provision of notice of the eligibility determination to the applicant or recipient as well as the grievance and appeal procedures which are applicable to meet due process. It is the intent of this section that grievance and appeals procedures available pursuant to §§ 71-3-151--71-3-165 and chapter 5, part 12 of this title shall not be more narrow than such procedures available to recipients of assistance upon August 31, 1996. The department shall also establish by rule, administrative procedures through which a recipient shall be granted an extension of temporary assistance, beyond the maximum eighteen-month period and the maximum sixty-month period set forth in § 71-3-154(d), for "good cause" or based upon the failure of the state to timely provide essential child care, transportation, education or job training services prescribed within the recipient's personal responsibility plan.

(g) All other agencies of the state shall cooperate with the department in any manner necessary for the administration of this part.

(h) Each governmental entity of the state, directly affected by any permanent rule promulgated by the department of human services to implement the provisions of §§ 71-3-151--71-3-165 and chapter 5, part 12 of this title, shall review such permanent rule not later than fourteen (14) calendar days after the rule is filed with the secretary of state. Prior to such deadline, the affected governmental entity shall submit written comments to the secretary of state for filing with the applicable rule and for distribution to the chair of the government operations committee of the senate and to the chair of the government operations committee of the house of representatives. Such written comments shall include, but not be limited to, a description of the impact of such permanent rule upon the existing rules, policies or procedures of the affected governmental entity.

(i) The commissioner of human services shall develop a written plan or statement providing for interagency coordination of services provided under §§ 71-3-151--71-3-165 and chapter 5, part 12 of this title, which shall include services provided by the departments of human services, education, labor and workforce development, and transportation.

TERMINATION OF GOVERNMENTAL ENTITY

<The Families First advisory council, created by this section, is set to terminate June 30, 2009, by § 4-29-230.>

T. C. A. § 71-3-158

WEST'S TENNESSEE CODE ANNOTATED

TITLE 71. WELFARE

CHAPTER 3. PROGRAMS AND SERVICES FOR CHILDREN

PART 1--AID TO DEPENDENT CHILDREN--GENERAL PROVISIONS

71-3-158. Modifications to state welfare program required by federal law; waivers

(a) The commissioner of human services is authorized, pursuant to the requirements of subsections (b) and (c), to immediately implement changes necessary as a result of federal legislation designed to reform welfare programs which are, or may be in the future, administered by the department of human services or other appropriate state agencies.

(b) It is the intent of the general assembly that any modifications to the state's welfare programs be implemented which are required by federal law or which are necessary to ensure or enhance federal funding of the state's welfare programs or which are necessary for the implementation of such changes. Acting in accordance with § 4-5-209, the department shall have authority to immediately implement any federal legislative changes by public necessity rules; provided, that permanent rules shall be promulgated pursuant to the provisions of the Uniform Administrative Procedures Act compiled in title 4, chapter 5.

(c) For purposes of this section, "welfare program" is defined as any federal or state means-tested program administered by the department of human services, or any child support enforcement program administered by the department of human services pursuant to Title IV-D of the Social Security Act, the Carl D. Perkins Vocational and Applied Technology Act authorized by P.L. 101-392, and the Adult Education Act, authorized by P.L. 100-297, as amended by the National Literacy Act of 1991, P.L. 102-73.

(d)(1) The commissioner of human services is authorized to seek and to implement waivers to carry out the provisions of §§ 71-1-151--71-1-165 [FN1] and chapter 5, part 12 of this title to the extent permitted by federal authorities.

(2)(i) If waivers which are necessary to implement any or all of the provisions of §§ 71-3-151-71--3-165, chapter 3, parts 9 and 10 and chapter 5, part 12 of this title cannot be obtained, or in those counties for which the continued operation of the existing welfare program may be required by the federal authorities for the evaluation of any waivers granted by the federal government, the department shall continue to administer, pursuant to the requirements of federal statutes and regulations, the federally funded programs of economic or welfare assistance to families and children under Titles IV-A and D of the Social Security Act [FN1] as they may continue to exist on or after September 1, 1996, until such time as such programs may be terminated or modified by the Congress of the United States, the United States Department of Health and Human Services or its successor, or the general assembly.

(ii) If at anytime:

(I) The Congress of the United States terminates or modifies the Title IV-A [FN2] Block grant program for federally funded economic or welfare assistance to families and children to the states (Temporary Assistance to Needy Families as provided Public Law 104-193 (1996), as amended); or

(II) The Congress of the United States, or the United States Department of Health and Human Services or its successor terminates, or modifies, Tennessee's Section 1115 waiver obtained pursuant to subdivision (1) on July 26, 1996 that resulted in the creation of the Families First program; or

(III) In the future, action by Congress, or by the United States Department of Health and Human Services or its successor, terminates or modifies any subsequent federally funded economic or

welfare assistance program or any waiver that may be obtained for the operation of such a program for families and children, or a waiver that may be obtained for a welfare program demonstration project;

then, in that circumstance, the department shall continue to administer, pursuant to the requirements of federal statutes and regulations existing at that time or subsequently enacted, the programs of economic or welfare assistance to families and children under Titles IV-A and D of the Social Security Act [FN1] as they may continue to exist on or after the date of such termination or modification or until the granting of a new waiver, and the provisions of 71-3-151-71-3-165, chapter 3, parts 9 and 10 and chapter 5, part 12 of this title shall be superseded to the extent:

(a) those provisions are inconsistent with any federal requirements for which no waiver exists, or
(b) No further federal funding is available, unless the general assembly specifically authorizes and funds the continuation of such provisions which do not otherwise conflict with federal law, regulation or waiver requirements.

(iii) The termination or modification of any federally funded programs for the economic assistance to families and children shall not result in any entitlement to funding by the state of Tennessee for such programs pursuant to the provisions of §§ 71-3-151-71-3-165, chapter 3, parts, 9 and 10 and chapter 5, part 12 of this title, or otherwise, unless appropriations are made in the appropriations act specifically for such purpose.

(iv) Notwithstanding any law to the contrary, the department shall have authority to implement any rules, by public necessity rule, that are necessary to:

- (a) Maintain compliance with such terminations or modifications; or
- (b) Maintain federal funding; or
- (c) Comply with any federal regulation that has not been waived; or
- (d) Comply with any waiver requirements;

provided, however, that the department shall promulgate permanent rules pursuant to a rulemaking hearing as required by §§ 4-5-201, et seq.

(e) Child support received by the department with respect to recipients of temporary assistance shall be passed on to the recipient in the same manner as was the practice of the department prior to July 1, 1996, with respect to recipients of Aid to Families with Dependent Children. However, the department shall not be required to pass through any portion of child support which by federal law must be paid to the federal government. The department shall seek any available waiver from a requirement that any portion of child support must be paid to the federal government, and, if a waiver is granted, pass the support through to the recipient of temporary assistance as required in this subsection.